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**IN THE DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

THD PARTNERS, LLC

v.

**JAG RESOURCES, INC. AND NX
UTILITIES, LLC**

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Civil Action No. 1:16-cv-00849-LY

JURY DEMANDED

**DEFENDANT JAG RESOURCES, INC.'S MEMORANDUM IN SUPPORT OF
MOTION TO COMPEL THD PARTNERS, LLC, THD CONSTRUCTION SERVICES,
LLC, AND ARON G. LOFTON TO MAKE DISCLOSURES REQUIRED BY RULE 26**

Defendant JAG RESOURCES, INC. ("JAG") asks the Court to compel THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON to make disclosures required by Federal Rule of Civil Procedure 26(a).

A. INTRODUCTION

1. Plaintiff is THD PARTNERS, LLC. Defendants are JAG RESOURCES, INC. and NX UTILITIES, LLC. Third-Party Defendants are THD CONSTRUCTION SERVICES, LLC and ARON G. LOFTON.

2. Plaintiff sued Defendants for breach of contract and quantum merit allegedly arising from a utilities installation project.

3. THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON have not made initial disclosures, nor have they satisfied their obligation to produce any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment as required by F.R.C.P. 26 (a)(1)(A)(iv). THD PARTNERS, LLC produced some documents, but it did not produce its Rule 26 disclosures or insurance policy or policies.

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4. JAG RESOURCES, INC. conferred with counsel for THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON in a good-faith effort to resolve the dispute without court action, as required by Federal Rule of Civil Procedure 37(a)(1) and as shown in the attached certificate of conference, but was unable to resolve the dispute because the parties did not produce the requested discovery.

B. ARGUMENT

5. Rule 26(a) requires each party to disclose certain information without request. A Court can compel disclosures and impose appropriate sanctions when a party does not make the required disclosures. Fed. R. Civ. P. 37(a)(3)(A).

6. The Court should grant JAG RESOURCES, INC.'S motion to compel THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON to make disclosures because they did not make the required initial disclosures. The initial disclosures were due on February 17, 2017. The deadline has passed and THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON have not made their initial disclosures, despite numerous written requests from the Defendants that they do so. *See* Exhibit A.

7. JAG RESOURCES, INC. has made its Rule 26 disclosures, as has NX UTILITIES, LLC.

8. NX UTILITIES, LLC is in agreement with JAG RESOURCES, INC.'S motion to compel.

9. JAG RESOURCES, INC. asks the Court to impose sanctions on THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON for their failure to make disclosures. Fed. R. Civ. P. 37(a) (5)(A). JAG RESOURCES, INC. asks
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the Court to award costs and attorneys' fees incurred in preparing this motion to compel. The affidavit of Gregory M. Lowry, in support of the sanction, is attached as Exhibit B.

10. The sanction requested is the least severe sanction available to remedy the wrong.

C. CONCLUSION

11. For the above reasons, JAG RESOURCES, INC. respectfully requests that the Court issue an Order requiring THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON to produce their complete Rule 26 disclosures, including the insurance policies required to be produced therewith, as soon as possible. Because THD PARTNERS, LLC, THD CONSTRUCTION SERVICES, LLC, and ARON G. LOFTON have refused to comply with the rules and make disclosures after numerous requests, JAG RESOURCES, INC. respectfully requests that the Court award its costs and attorneys' fees incurred in compelling this statutorily-required discovery. JAG RESOURCES, INC. also respectfully requests all other relief to which it is justly entitled at equity or in law.

Respectfully submitted,

/s/ BRET A. SANDERS

BRET A. SANDERS

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CERTIFICATE OF CONFERENCE

The undersigned certifies that the parties conferred regarding the subject of this motion and no agreement was reached.

/s/ Bret A. Sanders

BRET A. SANDERS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing is being served upon all parties in accordance with the Texas Rules of Civil Procedure, on this the 2nd day of November, 2018 as follows:

Via Electronic Mail

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Via Electronic Mail

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/s/ BRET A. SANDERS

BRET A. SANDERS/GREGORY M. LOWRY